

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

July 13, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated May 28, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

This letter serves as our written request for a Private Letter Ruling from the Illinois Department of Revenue concerning Telecommunications taxes and COMPANY's Newscast service.

COMPANY's Newscast service is an online information service that delivers real-time, custom-filtered business news via the World Wide Web. An archive of information from numerous financial and news organizations is available to our clients online. The charge to our clients is for information provided or accessible online, where the use of the telecommunications infrastructure is incidental to the service.

Our clients subscribe to annual Content agreements which allows them to access our servers and retrieve desired information and news feeds. COMPANY has billed and collected the telecommunications tax for Newscast in the past. Recently one of our clients disputed the tax and forwarded COMPANY a copy of 'Private Letter Ruling No. ST-98-0292-GIL' which states 'automated information retrieval or data processing fees are not taxable if billed separately from telecommunications.'

COMPANY has confirmed that the Newscast service itself is non-taxable through a telephone conversation with PERSON at the Illinois Department of Revenue. COMPANY is requesting a Private Letter Ruling substantiating PERSON's finding for our permanent files.

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Section 2(c) of the Act defines "telecommunications," and states that this term does not include "value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission." Section (2)(a)(3) of the Act states that the term, "gross charge," which forms the basis for the tax, does not include "charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content."

Generally, persons that provide subscribers access to the Internet ("ISPs") and who do not, as part of that service, charge customers for the line or other transmission charges which are used to obtain access to the Internet, are not considered to be telecommunications retailers. See 86 Ill. Adm. Code 495.100(d).

It is our general understanding that most ISPs do not, as part of their billing, charge customers for such line charges. Instead, the ISPs pay their telecommunications suppliers all transmission costs that they incur in providing the Internet service. Generally, the ISP's customers also pay their telecommunications suppliers for all transmission costs incurred while using the service. The single monthly fee charged by such ISPs, which often represents a flat charge for a package of items including Internet access, E-mail and electronic newsletters, would generally not be subject to the Telecommunications Excise Tax.

However, please note that ISPs which provide customers with the Internet access described above, but who also provide customers the use of 1-800 service, and separately assess customers with per minute charges for the use of such 1-800 numbers, are considered to be telecommunications retailers. They will incur Telecommunications Excise Tax on charges made for such 1-800 services.

If ISPs provide both transmission and data processing services, the charges for each must be disaggregated and separately identified. See 86 Ill. Adm. Code 495.100(c), enclosed. The statute does not require disaggregation on the customers' invoice, however. Therefore, it is the Department's position that the non-telecommunications charges are not subject to tax as long as they are disaggregated from the telecommunications charges in the retailers' books and records. If the non-telecommunications charges are not disaggregated from the telecommunications charges, all charges will be subject to Telecommunications Excise Tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If

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you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk

Enc.